

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,
v.
RODOLFO LANDA-RIVERA,
Defendant.

CRIMINAL NO. 97-110 (JAF)

UNITED STATES' MOTION IN RELATION TO RETURN OF PROPERTY

TO THE HONORABLE COURT:

COMES NOW the United States of America, through its undersigned attorneys, and very respectfully states, alleges, and prays as follows:¹

On August 3, 2004, defendant Rodolfo Landa-Rivera filed a motion for return of property (Docket No. 516). On September 8, 2004, this Honorable Court ordered the United States to respond no later than September 25, 2004 as to this claim. For reasons beyond the control of the undersigned Assistant U.S. Attorney's, we were not aware of this motion nor the Court's order until this morning (November 19, 2004), when we were notified of a similar order in the case of co-defendant Josué Reyes-Hernández, which prompted us to check that case's docket, learning then that Mr. Landa-Rivera's motion and the Court's order had remained unanswered. Only until recently, November 5, 2004, was a notice of appearance for the undersigned been entered electronically.

Landa-Rivera's *pro se* motion claims return of a motor vehicle and other property seized inside a motor vehicle. Defendant included two FBI forms:

- (1) The first form is dated July 31, 1997, showing property seized inside a Honda

¹ We hereby call the attention of the Court that we have relied on the information contained in the Court's docket as to motions filed in the past. Due to the age of this case, we do not have the benefit of the documents in our case file. We have made efforts with the FBI to obtain documents which we have included as exhibits in this motion.

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vehicle, license plate CRK-776; (Attached here as the “**Seizure Form**”), and

- (2) The second form is a Receipt of Property form dated August 7, 2001, showing property that was returned to a Carmen M. Rivera, which we surmise is a relative of the defendant.

The only property that appears in both the seizure and return of property forms, is the amount of \$3,804.

Information gathered today from the FBI has disclosed the following. The Honda vehicle referred to in the seizure form was seized by the FBI on May 23, 1997. This vehicle is a black 1991 Honda Accord, license plate CRK-776, VIN 1HGCB7664MA012164. On June 29, 2000, said vehicle was returned to its registered owner, Bienvenido Pérez-González, as shown by the attached FBI Indemnity Agreement, included herein as **Attachment 1**.

Unless defendant is making reference in his motion to some other vehicle, it appears that the vehicle in question was returned four (4) years ago to its registered owner.

Next Monday we intend to contact FBI Special Agent Marchand, who is the case agent, and was not available today, to ascertain (1) whether any other vehicle was seized to the defendant and (2) the fate of the property listed in the seizure form (7 compact disks, one Oakley brand gray bag, and one pair of FILA shorts). We will inform the Court as soon as we can of the availability of this property.

WHEREFORE, in light of the abovementioned situation, the United States respectfully requests that this Honorable Court allow the Government five (5) working days, that is, until November 26, 2004, to report on the whereabouts of the remaining property and to coordinate the return of any available seized property to defendant or his designee.

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RESPECTFULLY SUBMITTED. In San Juan, Puerto Rico, this 19th day of November,
2004.

H.S. GARCIA
United States Attorney

s/José Ruiz-Santiago
José Ruiz-Santiago
Assistant U.S. Attorney

CERTIFICATION OF SERVICE

I HEREBY CERTIFY that on this date a true and correct copy of the foregoing motion has been mailed to defendant Rodolfo Landa-Rivera, to his address at FCC Coleman, Florida Sumter County, Florida.

s/José Ruiz-Santiago